

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARC POKEMPNER,)	
)	
Plaintiff,)	NO. 10-cv-8297
-vs-)	
)	JUDGE DARRAH
POLARIS IMAGES CORP. a New York)	
corporation, and DOE I through DOE V,)	MAG. JUDGE KEYS
)	
Defendants.)	

**DEFENDANT POLARIS IMAGES CORPORATION'S MOTION REQUESTING
LEAVE TO FILE AN AMENDED NOTICE OF MOTION FOR SUMMARY
JUDGMENT AND TO RE-FILE ITS LOCAL RULE 56.1 STATEMENT OF
UNDISPUTED FACTS AND DECLARATION OF MATTHEW A. KAPLAN**

Defendant Polaris Images Corporation ("Polaris") respectfully requests leave to file an Amended Notice of Motion for Summary Judgment and to re-file its Local Rule 56.1 Statement of Undisputed Facts and Declaration of Matthew A. Kaplan. In support thereof, Polaris respectfully represents the following:

1. Last night, Polaris filed its Notice of Motion for Summary Judgment, Motion for Summary Judgment and Memorandum of Law in support thereof, together with its Declaration of Matthew A. Kaplan, Declaration of J.P. Pappis, and what it believed was its Local Rule 56.1 Statement of Undisputed Facts.

2. This morning, however, Defendant's counsel learned that it had inadvertently filed a copy of the Declaration of Matthew A. Kaplan instead of its Local Rule 56.1 Statement of Undisputed Facts. As it now stands, Docket Entry 43, Attachment #3 bears the label "Local Rule 56.1 Statement of Undisputed Facts"; however, when that document is downloaded, it is a copy of the Declaration of Matthew A. Kaplan. Accordingly, in order to rectify counsel's inadvertent error and to ensure that Court's Docket is accurate, Polaris respectfully requests

leave to re-file its Local Rule 56.1 Statement of Undisputed Facts. A true and correct copy of Polaris' Local Rule 56.1 Statement of Undisputed Facts, dated March 1, 2012, is attached hereto as Exhibit 1.

3. It has also come to our attention that Exhibit A to the Declaration of Matthew A. Kaplan, a copy of Plaintiff's December 30, 2010 Complaint (Docket Entry 1), was inadvertently excluded from the filing. A true and correct copy of the March 1, 2012 Declaration of Matthew A. Kaplan, along with all of the intended exhibits, is attached hereto as Exhibit 2.

4. This morning, Defendant's counsel contacted Melanie Foster of Your Honor's Chambers explaining the foregoing. During that phone call, Ms. Foster explained that Your Honor's Chambers are closed during the week of March 5, 2012; thus, the original return date of Polaris' Motion for Summary Judgment, March 7, 2012, would have to be changed. Because neither the motion calendar published on the Northern District of Illinois' website nor Your Honor's webpage reflected this change in schedule, Defendant's counsel was unaware of the conflict when it noticed its motion. Accordingly, Polaris respectfully requests leave to file an Amended Notice of Motion setting a date during the week of March 12, 2012, when Your Honor has returned. A true and correct copy of Polaris Image's Proposed Amended Notice of Motion for Summary Judgment is attached hereto as Exhibit 3.

WHEREFORE, the Polaris Images prays for the entry of an order:

- 1) Granting leave to re-file its Local Rule 56.1 Statement of Undisputed Facts;
- 2) Granting leave to re-file its Declaration of Matthew A. Kaplan;
- 3) Granting leave to file an Amended Notice of Motion for Summary Judgment; and
- 4) For such other and further relief as the court deems reasonable.

DATED: March 2, 2012

POLARIS IMAGES CORPORATION

/s/ Matthew A. Kaplan

Nancy E. Wolff (admitted *pro hac vice*)

Matthew A. Kaplan (admitted *pro hac vice*)

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